

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN B. FOSBINDER,)	
)	
)	
Plaintiff,)	8:06CV522
)	
v.)	
)	
COVENTRY HEALTH CARE OF)	ORDER
NEBRASKA, INC., a corporation,)	
)	
Defendant.)	
)	

This matter is before the Court on plaintiff's motion to remand (Filing No. 3). The Court has reviewed the motion and defendant's resistance thereto (Filing No. 6). While plaintiff's correctly assert that under 28 U.S.C. § 1446(b), a notice of removal must be filed within thirty days after receipt of a copy of the initial pleading filed by the plaintiff, plaintiff failed to account for the three additional days that are provided under Fed. R. Civ. P. 6(e). Rule 6(e) states that "[w]henever a party must or may act within a proscribed period after service, and service is made under Rule 5(B), (C) or (D), three days are added after the proscribed period would otherwise expire under subdivision (a)." Fed. R. Civ. P. 6(e).

Here the thirty day period ended on July 28, 2006. Adding the three days under Rule 6 gives defendant until July 31, 2006, to file a notice of removal. In fact, July 31, 2006, is the precise date on which the defendant filed its notice, and

defendant's notice of removal was timely. Because defendant's notice of removal was timely, plaintiff's motion to remand will be denied. Accordingly,

IT IS ORDERED that plaintiff's motion to remand is denied.

DATED this 28th day of August, 2006.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court